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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/725,334

12/02/2003

Randall S. Marshall

568.0001CIP

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7590

07/26/2006

CAHN & SAMUELS LLP

2000 P STREET NW

SUITE 200

WASHINGTON, DC 20036

EXAMINER

PIERCE, WILLIAM M

ART UNIT

PAPER NUMBER

3711

DATE MAILED: 07/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/725,334

Applicant(s)

MARSHALL, RANDALL S.

Examiner

William M. Pierce

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7 is/are allowed.
- 6) ☒ Claim(s) 1-6 and 16-20 is/are rejected.
- 7) ☒ Claim(s) 8-15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

WILLIAM M. PIERCE
PRIMARY EXAMINER

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: 3 pgs Ref. Mega millions

DETAILED ACTION***Claim Rejections - 35 USC § 112***

Claims 3 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claim 3, the specification fails to call for "any combination". Such goes beyond the scope of the original specification.

Claim Objections

Claims 4, 5, 10-14, 17 and 19 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 4 and 5 recites how the slip is used and fails to further limit previously claimed structure of the apparatus claimed. What something indicates how it is used as called for by claims 10-14, 17 and 19 is functional and fails to further limit structure.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1-6, 16-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Mega Millions.

Shown is at least one board on the right two thirds of the ticket having a plurality of numbers that are divided into a plurality of groups "play A", "play B" and "play C" that are further divided into an upper and lower zone by at least one landmark line in the middle of each group. On the upper left of the slip is a game number recording section entitled "SELECT ONE" and below that is a section considered to be a correct digit recording section. Note that were the names of the sectional of the ticket being claimed implies a function, such does not distinguish over the applied art. While features of an apparatus may be recited either structurally or functionally, claims directed to an

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apparatus must be distinguished from the prior art in terms of structure rather than function. >In re Schreiber, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997). Applicant confirms in his remarks that means plus function structure is not intended in claim 1. As such a "game number recording section" and a "correct digit recording section" are considered to be most broadly a first and second sections referred to by those names and interpreted to be met by the applied art as set forth above.

Applicant does not argue that the applied art fails to meet the limitations of the claims. Instead, he relies upon questioning the validity of its date. Appended to this office action is another copy of the reference to Mega Millions showing on pg. 2 in the middle and at the bottom of the pg. the date stated in the previous office action of 5/02. In fact the lower left of pg. 3 establishes an earlier date of "revised 2-20-2002". Clearly this is prior art.

Conclusion

Claims 7-15 would be allowable if rewritten to overcome the objections to the claims. The function of the means recited in claim 7 is not fairly taught by the applied art.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William Pierce whose telephone number is 571-272-4414 and E-mail address is bill.pierce@USPTO.gov. The examiner can normally be reached on Monday and Friday 9:00 to 7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**WILLIAM M. PIERCE
PRIMARY EXAMINER**



- Select five numbers from the first set of numbers – any five different numbers from 1 through 52. Then select one Mega Ball number from the second set of numbers – any one number from 1 through 52.
- You can choose your own numbers or use Easy Pick.
- All prizes (except the jackpot) are fixed.
- Winners still choose the Annual Payout or Cash Option method to receive jackpot. Annual payouts will be made over 26 years.
- Tickets cannot be canceled.

Mega Millions		Virginia Lottery		PLAY 2		PLAY 5		PLAY 5 + 1		PLAY 5 + 2	
PICK 1		PICK 5		PICK 1		PICK 5		PICK 1		PICK 5	
00	01	02	03	04	05	06	07	08	09	10	11
12	13	14	15	16	17	18	19	20	21	22	23
24	25	26	27	28	29	30	31	32	33	34	35
36	37	38	39	40	41	42	43	44	45	46	47
48	49	50	51	52	53	54	55	56	57	58	59
60	61	62	63	64	65	66	67	68	69	70	71
72	73	74	75	76	77	78	79	80	81	82	83
84	85	86	87	88	89	90	91	92	93	94	95
96	97	98	99	00	01	02	03	04	05	06	07
08	09	10	11	12	13	14	15	16	17	18	19
20	21	22	23	24	25	26	27	28	29	30	31
32	33	34	35	36	37	38	39	40	41	42	43
44	45	46	47	48	49	50	51	52	53	54	55
56	57	58	59	60	61	62	63	64	65	66	67
68	69	70	71	72	73	74	75	76	77	78	79
80	81	82	83	84	85	86	87	88	89	90	91
92	93	94	95	96	97	98	99	00	01	02	03
04	05	06	07	08	09	10	11	12	13	14	15
16	17	18	19	20	21	22	23	24	25	26	27
28	29	30	31	32	33	34	35	36	37	38	39
40	41	42	43	44	45	46	47	48	49	50	51
52	53	54	55	56	57	58	59	60	61	62	63
64	65	66	67	68	69	70	71	72	73	74	75
76	77	78	79	80	81	82	83	84	85	86	87
88	89	90	91	92	93	94	95	96	97	98	99
00	01	02	03	04	05	06	07	08	09	10	11
12	13	14	15	16	17	18	19	20	21	22	23
24	25	26	27	28	29	30	31	32	33	34	35
36	37	38	39	40	41	42	43	44	45	46	47
48	49	50	51	52	53	54	55	56	57	58	59
60	61	62	63	64	65	66	67	68	69	70	71
72	73	74	75	76	77	78	79	80	81	82	83
84	85	86	87	88	89	90	91	92	93	94	95
96	97	98	99	00	01	02	03	04	05	06	07
08	09	10	11	12	13	14	15	16	17	18	19
20	21	22	23	24	25	26	27	28	29	30	31
32	33	34	35	36	37	38	39	40	41	42	43
44	45	46	47	48	49	50	51	52	53	54	55
56	57	58	59	60	61	62	63	64	65	66	67
68	69	70	71	72	73	74	75	76	77	78	79
80	81	82	83	84	85	86	87	88	89	90	91
92	93	94	95	96	97	98	99	00	01	02	03
04	05	06	07	08	09	10	11	12	13	14	15
16	17	18	19	20	21	22	23	24	25	26	27</

- **1** Choose 5 different numbers from the top section
- **2** Choose 1 Mega Ball number from the bottom section
- **3** Play up to five separate number combinations on a single playslip.
- **4** Select Easy Pick in each section if you want.

Mega Millions drawings are held Tuesday and Friday at 11:00 p.m.

If no one wins the jackpot, the money is added to the jackpot for the next

drawing. The jackpot continues to grow until someone matches all six numbers drawn. Mega Millions lotteries include Georgia, Illinois, Michigan, Maryland, Massachusetts, New Jersey, New York, Ohio and Virginia.



Cash Option or Annual Payout

Cash Option:

Annual Payout:

Jackpot Prize Pool:

RULES

[illegible]



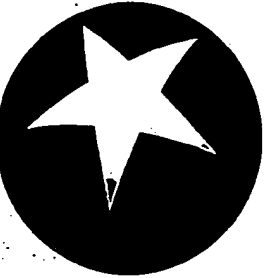
The biggest jackpot game in Virginia just got bigger: MEGA MILLIONS replaces the Big Game as the Commonwealth's newest jackpot game. With more people playing, jackpots should roll to higher levels at a faster rate. Second prize is \$175,000. You still choose six numbers and there are still nine exciting ways to win. Each play still costs just \$1.

What's New

- Jackpots starting at \$10 million
- Other prizes range from \$2 to \$175,000
- Jackpots could reach hundreds of millions of dollars

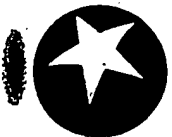
What's the Same

- \$1 per play
- Drawings every Tuesday and Friday
- Nine ways to win



Questions?

Please contact:
Virginia Lottery
Public Affairs
804-692-7777



For the most complete information about current and past winning numbers, please check the Virginia Lottery's web page.

www.valottery.com

Several local player information phone lines are available for the latest winning numbers:

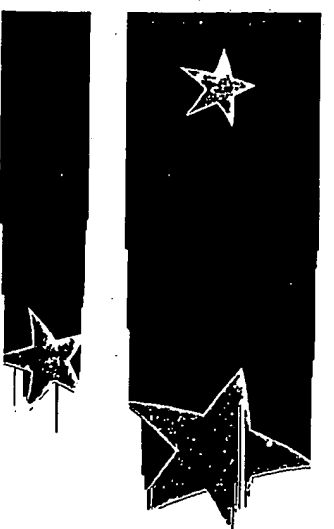
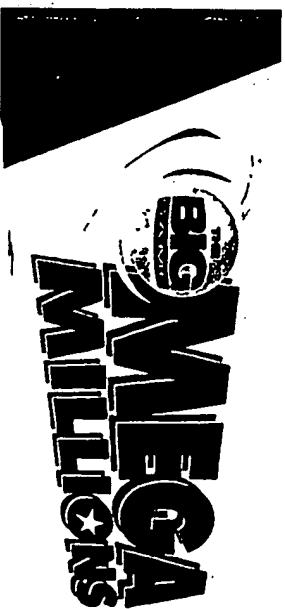
Arlington	276-676-5825
Charlottesville	703-920-5686
Danville	434-980-5825
Fredericksburg	434-793-5825
Hampton	540-368-1213
Harrisonburg	757-825-7888
Lynchburg	540-438-5825
Martinsville	434-528-5825
Petersburg	276-656-6568
Richmond	804-520-1511
Roanoke	804-662-5825
Staunton	540-265-5686
	540-885-0200

SEASON TICKETS

Mega Millions Subscription Program

You can play Mega Millions by mail and get a Season Ticket for 26, 52, or 104 draws. For more details on Mega Millions Season Tickets, call 1-800-354-MAIL or ask your Lottery retailer.

THE BIG GAME
MEGA SIZED!



5-2003

Clearly mark all selections in blue or black pen or pencil only. If you make a mistake, mark the VOID box. DO NOT ERASE.

HOW TO PLAY MEGA MILLIONS

1. Mark 5 numbers from 1 to 52 in the upper play area, and mark 1 number from 1 to 52 in the lower play area or choose Easy Pick.
2. You may use EASY PICK for all or part of your numbers. For Partial EASY PICK, mark any numbers you want, then mark the EASY PICK box. The computer will randomly select all or part of your numbers for a total of 6 per play.
3. You may play up to 5 plays (A - E) at \$1.00 per play on this playslip.
4. OPTIONAL PLAYS: Mark the OPTIONAL PLAYS box for any, or all, of the following. Playing more than one drawing increases the ticket price by the number of drawings you choose.
 - MULTI-DRAW: Play more than one drawing, including the next.
 - ADVANCE: Play any future drawing, or drawings, except the next.
 - REPEAT: Your play repeats for more than one ticket.
5. Jackpot winners will choose Cash Option or Annual Payout when they claim their prize. With Cash Option, you choose to receive your share of the jackpot in one payment. This one-time payment will be roughly half the estimated advertised jackpot amount (before taxes). With Annual Payout, you will receive your share of the jackpot in 26 annual payments (if a winner dies, his or her heirs will inherit the remaining payments).

Important: Check your play slip and ticket for accuracy of price, numbers, options and drawing date. YOU are responsible for ticket accuracy.

Tickets MAY NOT be voided or canceled. ALL SALES ARE FINAL.

This playslip can be used only in Virginia. Winning tickets purchased in Virginia can be claimed only in Virginia.

MEGA MILLIONS CHANCES AND PRIZES

On Tuesday and Friday, five balls will be drawn from 1 to 52 and one ball will be drawn from 1 to 52. You win if the numbers on one row of your ticket match the numbers of the balls drawn on that date. There are 9 ways to win a prize! Visit our website at www.valottery.com to view drawings and past results.

MATCH	MATCH	PRIZE	CHANCES
5 of 52 AND 1 of 52		Jackpot*	1 in 135,145,920
5 of 52	0 of 52	\$175,000**	1 in 2,649,920
4 of 52 AND 1 of 52		\$5,000**	1 in 575,089
4 of 52	0 of 52	\$150**	1 in 11,276
3 of 52 AND 1 of 52		\$150**	1 in 12,502
2 of 52 AND 1 of 52		\$10	1 in 833
3 of 52	0 of 52	\$7	1 in 245
1 of 52 AND 1 of 52		\$3	1 in 152
0 of 52	1 of 52	\$2	1 in 88

Overall chances of winning a prize: 1 in 43.

*If more than one ticket matches six numbers in a drawing, winners will share the jackpot equally.

**If prize liability exceeds the prize pool funding, prizes may be paid on a pari-mutuel basis and could be lower than these published prize levels. Refer to the official game rules available at VA Lottery offices for a more detailed explanation.

HOW TO CLAIM YOUR PRIZE

- Sign the back of your ticket. Ticket is a bearer instrument until signed.
- Present winning ticket for up to and including \$500 to any online Lottery Retailer for validation and payment.
- Prizes of any amount may be claimed at a Virginia Lottery office or by mail: Virginia Lottery CLAIMS, P.O. Box 1254, Richmond, VA 23218-1254.

RULES

- All tickets, transactions, players, and winners are subject to, and players/winners agree to be bound by, Virginia Lottery rules and regulations and Virginia state law. Copies are available at Virginia Lottery offices.
- Knowingly presenting or transferring for payment an altered, forged or counterfeit ticket is a felony.
- Winning tickets must be claimed within 180 days of the draw date on the ticket.
- Ticket purchasers and winners must be at least 18 years old.
- A playslip is not a valid receipt.

Revised 2-20-2002



All Virginia Lottery profits are dedicated solely to Virginia's public schools, K-12.

Shift 2 3

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02

MEGA MILLIONS

VIRGINIA LOTTERY

MAIN BODY FOR OPTIONAL PLAYS

0-0-0-0		PICK 1	PICK 5	
1	2	3	4	5
6	7	8	9	10
11	12	13	14	15
16	17	18	19	20
21	22	23	24	25
26	27	28	29	30
31	32	33	34	35
36	37	38	39	40
41	42	43	44	45
46	47	48	49	50
51	52	53	54	55
56	57	58	59	60
61	62	63	64	65
66	67	68	69	70
71	72	73	74	75
76	77	78	79	80
81	82	83	84	85
86	87	88	89	90
91	92	93	94	95
96	97	98	99	100